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File 7

OGC Has Reviewed

100-10104

14 AUG 1959

MEMORANDUM FOR: Director of Personnel

ATTENTION:



SUBJECT: Proposal for a Program of Sponsored Full-Time Graduate Study for selected College Graduates in Economics

1. You have referred subject proposal to this Office for comment. Accompanying it were memoranda containing comments by the Director of Training, Deputy Director (Support), and Chief, Personnel Operations Division. Our comments are made with reference to the "Government Employees Training Act" of July 7, 1950, hereafter referred to as the Act, and Executive Order 10005 of February 18, 1950, whereby the President, under authority contained in the Act, exempted this Agency from certain of its provisions.

2. Although the subject at hand is, of course, principally one for policy decision and administrative in nature, we feel there are several points deserving of discussion by this Office. They are as follows:

(a) Attachment 2 to the basic memorandum by the Acting AD/HR is a proposed agreement whereby the employee selected for training is to continue employment with the Agency for a period of time. This agreement apparently seeks to conform to requirements of section 11 of the Act entitled "Agreements of Employees Receiving Training Through Non-Government Facilities to Continue in Government Service for Certain Periods." The Agency was exempted from section 11 by E.O. 10005. However, we regard this exemption as merely permissive and not prohibitive. In other words, it does not forbid us from complying with section 11 if we wish. We consulted informally with the Office of General Counsel of the Civil Service Commission (the Commission is given supervisory responsibility under the Act) and that Office agreed with our position in that respect. They also agreed with our opinion, however, that if we were to have an employee agreement it should conform to the provisions of section 11. Attachment 2 does not quite do this. For example, it provides for

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service for a certain number of weeks beginning with the enrollment in training. This might be better worded to conform to section 11, which provides for service for three times the length of the training after its expiration. Attachment 2 provides for repayment of expenses by the employee if he separates voluntarily or is involuntarily separated for cause. Section 11 merely provides for repayment if the employee voluntarily separates. If he is involuntarily separated, there is no obligation to repay. The legislative history confirms this. (See U.S. Cong. & Adm. News, 55th Cong., 2d Session, Vol. 2, page 2323.) In the event subject proposal is approved, this Office would be glad to assist in drawing up an agreement which is more in conformity with section 11.

(b) The Agency was also exempted from section 12 of the Act entitled "Limitations on Training of Employees Through Non-Government Facilities." Section 12(a)(2) provides that no employee having less than one year of current, continuous civilian service in the Government shall be eligible for such training "unless the head of his department determines . . . that it is in the public interest." Our files reveal, however, that the basis of the exemption to the Act which was sought by the Office of Training was for security and cover requirements of training necessary for the Agency to attain its operational objectives. (See memoranda from Director of Training to General Counsel, dated 10 July 1958.) We, therefore, feel that in order to comply with the spirit in which our exemption to the Act was sought and obtained, the hiring of employees to be placed directly in non-governmental training should have at least a security or cover basis with probably an operational objective. There would appear to be serious doubt about the existence of such a basis in connection with the hiring for immediate training of economists as intelligence analysts. Such being the case, we feel that the ultimate decision for the hiring proposed is one for the Director of Central Intelligence. It is noted that the Director of Training recommends that consideration be given to a year of indoctrination and on-the-job experience prior to the proposed graduate training.

(c) Section 13 of the Act provides that nothing in the Act shall be construed to authorize training to obtain a degree to qualify for a position for which the degree is a basic requirement or solely for the purpose of providing an opportunity to obtain one or more academic degrees. Subject memoranda in paragraph (b) states that, while much of the academic credit gained would be applicable to candidacy for advanced degrees, the program would not be designed to achieve such degrees except to the extent degree requirements

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coincided with the course of study prescribed by the Agency. However, in so it is recommended that the employees be assigned to full-time graduate study for one, two or three years. It is difficult to see how an employee doing full-time graduate study for two or three years could escape without at least one degree and thereby perhaps qualify for a position. The proposal conceivably then in some of its aspects could give the appearance of violation, section 13.

3. Subject memoranda and accompanying papers are returned herewith.



Acting General Counsel

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Attachment

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OGC:OEP:bb(12 August 1959)

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